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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 15th December 2012

No. 10360—li/1(B)-66/2002-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 14th September 2012 in Industrial Dispute Case No. 101 of 2002 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of the Executive Engineer, Mahanadi-Chitrotpala Island Irrigation Division No. 1, Kendupatna and their Workman Shri Prafulla Ch. Pal represented through General Secretary, Mahanadi-Birupa and Chitrotpala-Genguty Irrigation Project Employees Union was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 101 OF 2002

Dated the 14th September 2012

Present :

S.A.K.Z. Ahamed,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The Management of the Executive
Engineer, Mahanadi-Chitrotpala Island
Irrigation Division No. 1, Kendupatna

And

Their Workman
Shri Prafulla Ch. Pal
represented through General Secretary,
Mahanadi-Birupa and Chitrotpala-Genguty
Irrigation Project Employees Union.

.. First party—Management

.. Second party—Workman

Appearances :

For the First party—Management	..	Shri G. Senapati
For the Second party—Workman	..	Shri C. Mohapatra

A W A R D

The Government of Odisha in the Labour & Employment Department in exercise of powers conferred upon them by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Court for adjudication vide Order No. 10242—li/1(B)-66/2002-LE., dated the 27th August 2002.

“Whether the termination of service of Shri Prafulla Chandra Pal, Watchman redesignated as Khalasi by the Executive Engineer, Mahanadi-Chitrotpala Island Irrigation Division No. 1, Kendupatna, Cuttack with effect from the 1st December 2001 is legal and/or justified ? If not, to what relief Shri Pal is entitled ?”

2. The case of the workman in brief, as set out in the statement of claim filed by the General Secretary of the Employees Union is that the workman was appointed as a Store Choukidar as per Order, dated the 9th February 1984 of the Executive Engineer, Mahanadi Barrage Store and Mechanical Division, Cuttack and continued as such till the 3rd March 1992. Thereafter, the Superintending Engineer, Mahanadi-Chitrotpala Island Irrigation Circle vide Order, dated the 4th March 1992 transferred the workman to the present management, but the management utilised the services of the workman as Khalasi instead of Watchman. Thereafter, the management retrenched the workman vide Order, dated the 30th November 2001. The management has not complied the provisions of Sections 25-F and 25-G of the Industrial Disputes Act, 1947 while terminating the services of the workman. On these averments, the workman has prayed for his reinstatement in service with full back wages.

3. On the other hand, the management appeared and filed written statement admitting the claim of the workman. According to the management, the workman was retrenched from service with effect from the 30th November 2001 after due compliance of the provisions of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. The workman has also accepted the compensation benefits of retrenchment for his entire service period. The workman has also applied for final payment of E.P.F. and the same was forwarded to the E.P.F. Commissioner for necessary payment to him. The workman has accepted the provisional seniority list prepared by the Superintending Engineer, M.C.I.I. Circle, Cuttack as Khalasi from the date of joining of the workman in the said post and no representation was received from the workman. Therefore, according to the management, the workman has accepted the post of Khalasi. On these averments, the management has prayed to answer the reference in favour of the management.

4. In view of the above pleadings of the parties, following issues are settled:—

ISSUES

- (i) Whether the termination of services of Shri Prafulla Chandra Pal, Watchman redesignation as Khalasi by the Executive Engineer, Mahanadi-Chitrotpala Island Irrigation Division No. 1, Kendupatna, Cuttack with effect from the 1st December 2001 is legal and/or justified ?
- (ii) If not to what relief Shri Pal is entitled ?

5. During hearing of this case, the workman has neither examined any witness nor he himself examined and proved any document in support of his case. On the other hand, the management has examined its Assistant Engineer as M.W. 1. Law is well settled that :

“If a workman remains absent, it becomes the duty of the Tribunal to consider the claim statement filed by the workman as well as the written statement filed by the management and any other record which is made available to the Labour Court and it should answer the point of dispute referred to it on merit”.

So in view of the above settled principle of law, now this Court has to answer the point of dispute referred by the Government on merit.

6. On perusal of the statement of claim filed by the workman, written statement of the management and other documents available in the case record, it is clear that the management after due compliance of provisions of Section 25-F of the Industrial Disputes Act, 1947, the workman was terminated from service. On the other hand, the workman has not come forward to rebut the above plea of the management. So on careful consideration of the above pleadings of the parties so also the affidavit evidence filed by the management, I am of the opinion that the termination of services of the workman by the management with effect from the 1st December 2001 is legal and justified and the workman is not entitled to get any relief as prayed for.

7. Hence, ordered :

That the termination of service of Shri Prafulla Chandra Pal, Watchman redesignated as Khalasi by the Executive Engineer, Mahanadi-Chitrotpala Island Irrigation Division No. 1, Kendupatna, Cuttack with effect from the 1st December 2001 is legal and justified. The workman Shri Pal is not entitled to get any relief as prayed for.

The reference is answered accordingly.

Dictated and corrected by me.

S. A. K.Z. AHAMED
14-09-2012
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
14-09-2012
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor

J. DALANAYAK

Under-Secretary to Government